

**BUREAU OF ENVIRONMENTAL REMEDIATION/REMEDIAL SECTION
GUIDELINE
RECLASSIFICATION PLAN**

BER POLICY # BER-RS-024

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Section Chief:



Date: 12/29/05

Bureau Manager:



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REVISIONS

Reviser: Kurt Limesand

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ORIGINATOR

Originator: Rick Bean

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The Kansas Department of Health and Environment/Bureau of Environmental Remediation (KDHE/BER) maintains and updates an electronic database, the Identified Sites List (ISL), of known or suspected contaminated sites within the State of Kansas. Sites on the ISL are designated as *Active* until an investigation establishes that no contamination is present over appropriate cleanup standards or until corrective action has attained appropriate cleanup standards designated by KDHE/BER. When a Potentially Responsible Party (PRP) believes that corrective action or monitoring at a contaminated site has achieved those standards, the PRP may request that KDHE/BER reclassify the site on the ISL to a status of *Resolved*. The PRP seeking reclassification of a site must provide or have previously submitted to KDHE/BER the necessary documentation, as described below, to support reclassification. KDHE will make the final determination concerning reclassification of the site on the ISL and will document that decision accordingly. KDHE may determine that the collection of additional data is necessary to demonstrate that reclassification is appropriate.

Note that sites that do not attain cleanup goals, either due to technical impracticability or because the selected remedy involves non-clean closure such as capping waste in place, are not candidates for reclassification and will retain the ISL designation of *Active*. Also note that this Reclassification Plan (RCP) does not apply to sites participating in the Voluntary Cleanup and Property Redevelopment Program (VCPRP), which by statute are granted an alternative designation of *No Further Action* upon successful project completion (K.S.A. 65-34, 169).

The primary objectives of the RCP are described as follows:

- 1) to establish a formal and consistent procedure to reclassify contaminated sites to *Resolved* status on the ISL. The *Resolved* status can only be obtained by achieving the defined remedial action goals specific to each site and obtaining KDHE/BER concurrence that the site meets other reclassification criteria specified herein.
- 2) to ensure that sufficient and appropriate data has been generated to support a KDHE/BER decision to reclassify the site to a *Resolved* status.
- 3) to provide an incentive for PRPs to remediate contaminated sites so those which attain KDHE's established cleanup criteria can be reclassified from *Active* to *Resolved* status on the ISL, which is subject to public scrutiny

4) to document successful completion of PRP obligations under Consent Orders or other legal agreements for cleanup, monitoring, or other actions at contaminated sites. Upon successful reclassification of a site on the ISL and receipt of final payment from the PRP for oversight costs, KDHE/BER will initiate the process for termination of the existing agreement, where appropriate.

A request for reclassification may be filed with KDHE when one or more of the following applicable criteria are met:

I. Groundwater and Surface Water Criteria

1) Analytical results from indicator sampling locations, as determined by KDHE, must be less than KDHE-approved cleanup goals; those goals may include, but are not limited to, chemical-specific maximum contaminant levels (MCLs), KDHE's *Risk-Based Standards for Kansas* (Tier 2 default cleanup goals or site-specific goals derived through the Tier 3 process) or the designated applicable Kansas Surface Water Quality Standards (K.A.R. 28-16-28b) for the designated surface body of water. Status reclassification may be granted after monitoring demonstrates cleanup goals have been achieved and maintained for four (4) consecutive, equally time-sequenced sampling episodes conducted under KDHE oversight over a period of no less than two (2) years, or as otherwise approved by KDHE; *or*

2) Analytical results from indicator sampling points, as determined by KDHE, do not exceed background¹ levels for four (4) consecutive, equally time-sequenced sampling episodes conducted under KDHE oversight over a period of no less than two (2) years, or as otherwise approved by KDHE; *or*

3) Analytical results from indicator sampling points, as determined by KDHE, document that the site does not pose an unacceptable human health or ecological risk based upon a site-specific risk assessment as provided for in a Comprehensive Investigation or Remedial Investigation (as defined by KDHE's respective Scopes of Work) for four (4) consecutive, equally time-sequenced sampling episodes conducted under KDHE oversight over a period of no less than two (2) years, or as otherwise approved by KDHE.

II. Soil Criteria

1) Analytical results do not exceed KDHE contaminant-specific cleanup goal as provided in the most recent KDHE *Risk-Based Standards for Kansas* manual for discrete sampling of soil at locations and depths approved by KDHE; *or*

¹Background levels are defined for the purpose of this Reclassification Plan to include concentrations of chemicals of concern that are:

- 1) naturally occurring levels, which are ambient concentrations of chemicals present in the environment that have not been influenced by human activity; and
- 2) anthropogenic levels, which are concentrations of chemicals that are present in the environment due to human activity unrelated to the site in question.

2) Analytical results do not exceed background levels for discrete sampling of soil at locations and depths approved by KDHE; *or*

3) Analytical results document that the site does not pose an unacceptable risk based upon a site-specific risk assessment as provided for in a Comprehensive Investigation or Remedial Investigation (as defined by the respective KDHE Scope of Work) at locations and depths approved by KDHE.

III. Other Considerations

1) If the above six (6) criteria do not apply to a site, the PRP may elect to submit to KDHE/BER a Reclassification Petition, including a Reclassification Report as outlined below, that identifies and justifies a rationale for reclassifying the site to *Resolved* status on the ISL despite failure to satisfy the criteria identified above. KDHE will make the final determination concerning reclassification of the site on the ISL and will document that decision accordingly.

Reclassification Report (RCR)

The KDHE/BER project manager or other designee will prepare the RCR, except as provided under III above, for review and concurrence through to the appropriate Section Chief. That RCR should adhere to the format below and generally should not exceed three (3) pages in length.

1. Executive Summary - a summary of significant project milestones, including: Consent Order execution date(s), completion dates for investigation and cleanup project phases, and date and summary of interim and final Corrective Action Decisions.
2. Site Description - a summary of site history, site location, ownership and operation of the site, wastes handled, and any documented or alleged releases.
3. Nature and Extent of Contamination - a description of the original basis for site identification, a summary of the sources, contaminants, quantity, and physical state of contamination, and a summary of resources affected and human health and environmental impacts.
4. Response Activities - a summary of the remedial response activities completed at the site, including selected alternatives and effectiveness/performance of the remedial alternatives.
5. Supporting Data - a summary of the approved target cleanup levels, current and historical analytical data, and remedial performance data that document the successful attainment of cleanup standards.
6. Reclassification Recommendation - a summary of the rationale for reclassification of the site pursuant to the criteria outlined in I through III above.

The RCR will be reviewed by KDHE. KDHE will notify the PRP by letter of KDHE's decision on reclassification of the site. Additional information may be requested by KDHE prior to final reclassification of the site. Upon KDHE approval, the site will be reclassified as *Resolved* on the ISL. KDHE files will maintain the Administrative Record for the site for public inquiry and review.

The reclassification of a site indicates known contamination at a particular site does not pose a significant human health or environmental threat based on information available to KDHE at that time. Reclassification does not imply a site is free from all contamination or pollution. A reclassified site may be reactivated on the ISL for further evaluation by KDHE if new or supplemental information indicates a potential threat to human health or the environment exists at the site or if additional contamination is created through subsequent release(s).